IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1036 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PURSHOTTAMDAS ODORMAL KALVANI & 1 - Petitioner(s)

Versus

COLLECTOR & 2 - Respondent(s)

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Appearance :

HL PATEL ADVOCATES for Petitioner(s) : 1 - 2.
MR SIRAJ GORI AGP for Respondent(s) : 1 - 2.
MR KR BRAHMBHATT for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 18/11/2005

ORAL JUDGMENT

1. In the present petition, the petitioners have challenged an order dated 2nd February, 2000 passed by Collector, Mehsana. By the impugned order the Collector directed the Chief Officer of Vijapur Nagarpalika and City Survey Superintendent, Vijapur to remove the encroachment of a property bearing City Survey No. 5093.

In the order it is stated that the property in question was given for lease for a period of three years after which it was required to be renewed. However, no such steps appeared to have been taken. Since the lease is not renewed, the possession will be illegal and encroachment should be removed.

2. It is the case of the petitioners that the petitioner no.1 was given certain land admeasuring 31 sq. yards, part of City Survey No. 5093 initially on lease for a period of seven years by an order dated 12/5/1958. The petitioner no.1 has been paying rent for the plot in question and is in actual occupation. It is the case of the petitioners that they are sufferers of partition.

3. On the other hand reply has been filed by the State Government contending inter alia that by an order dated 12/5/1958 land admeasuring 31 sq. mtrs. was granted to Sevkram Odormal Kalvani on lease for a period of seven years. As per the terms of the lease, the lease holder was not permitted to transfer the property to any one, despite which the possession of the land was transferred in the name of Purshottam Odormal Kalvani.

4. Be as it may, it appears that the petitioners are in actual possession of the land in question since decades. At least initially the land was given legally through a lease for a period of seven years in favour of Sevakram Odormal Kalvani. If the petitioners apply for regularisation of their possession and show willingness to pay necessary premium for the said purpose, their case should be considered by the State Government within the parameters of rules, regulations and policy.

5. If the petitioners apply to the respondents within a period of four weeks from today for the above purpose, such an application shall be considered in accordance with law and disposed of expeditiously and preferably within a period of four months of its receipt unmindful of the impugned order 'Annexure A'. With these directions, petition is disposed of. Rule is made absolute to the above extent with no order as to costs. Status quo as on today will continue till the State Government decides the application of the petitioners.

(Akil Kureshi, J.)

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